***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY***

**+Writ Petition No.8395 of 2007**

% 27.06.2007

Between:

K. Jagadeesh Reddy

…Petitioner

And

The JTC & Secretary,
State Transport Authority and another

…Respondents

! COUNSEL FOR Petitioner: Sri Noushad Ali,

^ COUNSEL FOR RESPONDENTS: G.P. for Transport

&

Sri K. Srinivasa Rao, for R-2

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> Head Note:

? CITATIONS:

1) AIR 1991 A.P. 11 (F.B)

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**JUDGMENT:**

The petitioner was granted a permit to operate a bus on an inter-state route, between Tirupati and Bangalore. The Karnataka State Road Transport Corporation, the 2nd respondent herein, was granted as many as five temporary permits to ply its buses between Bangalore and Madanapalli by the State Transport Authority (STA), Karnataka. Inasmuch as the portion of the route is within the State of Andhra Pradesh, the 1st respondent countersigned the permits.

According to the petitioner the permits granted in favour of the 2nd respondent overlap the route, on which he was granted permission, and that they were not covered by the inter-state agreement. Therefore, he approached the 1st respondent for issuance of the certified copy of the proceedings, through which he countersigned the permits. The 1st respondent did not accede to the request of the petitioner, by stating that it did not maintain any record for making countersignatures.

In this writ petition, the action of the 1st respondent in countersigning the temporary permits, issued to the 2nd respondent, is challenged, as being contrary to the provisions of the Motor Vehicles Act, 1988 (for short '*the Act*'), and violative of principles of natural justice. Petitioner contends that, being an existing operator on inter-state route, he ought to have been given notice before the 1st respondent countersigned the permits, in favour of the 2nd respondent.

No counter affidavit is filed by the 1st respondent.

A counter-affidavit is filed on behalf of the 2nd respondent. It is stated that the temporary permits were issued in its favour by the S.T.A. in accordance with the existing inter-state agreement, and that the countersignature made by the 1st respondent, does not suffer from any illegality. It is pleaded that the petitioner has no *locus standi*, to question the countersignatures made in favour of the 2nd respondent.

Heard Sri Noushad Ali, learned counsel for the petitioner, learned Government Pleader for Transport, and Sri K. Srinivasa Rao, learned counsel for the 2nd respondent.

Before discussing the matter on merits, the objection raised by the 2nd respondent, as to the maintainability of the writ petition; needs to be dealt with. Under the Motor Vehicles Act, 1939, a permit-holder of stage carriage was conferred with certain rights, and it was obligatory on the part of the concerned authorities, to issue notice to the existing operators, before any fresh permits are granted on the same route. The 1988 Act has brought about substantial changes. The grant of permits is liberalized and virtually there are no restrictions for grant of permits in a route. Therefore, it was held by several courts that an existing operator does not have any right to object the grant of permits on the same route, nor is he conferred with the right to be heard in such cases. A Full Bench of this Court in Secretary, ***R.T.A., Guntur, v. E. Rama Rao***[1] held that an existing operator does not have any legal right, to file representations before the R.T.A., in such cases. It was observed that though such representations may be treated as source of information, consideration thereof, cannot be insisted, as a matter of right. To the same effect is the order passed in Writ Petition No.7865 of 1998.

Grant of permits on inter-state routes, however, stands on a different footing. Section 88 deals with the validity of the permits, outside the region in which, they are granted. It deals with permits, valid within the State and outside the State. Countersignature by the Regional Transport Authority of the other region, and State Transport Authority of the other State, as the case may be, into which the route extends, is necessary. Separate provision is made, prescribing the manner in which the number of permits that can be granted on inter-state routes may be fixed, and publication thereof. The relevant provision read as under:

> **Section 88 (1)**: "**Validation of permits for use outside region in which granted**:
>
> Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:
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> xxxx
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> xxxx
>
> (5) Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered".
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> xxxx

From a perusal of sub-section (5), it is evident that invitation of objections and consideration thereof, is mandatory. This process confers corresponding rights on the effected parties, who are the existing operators on the concerned routes, or portions thereof. It may be contended that this exercise is to be undertaken only before the number of inter-state routes is identified. However, an existing operator on such routes cannot be denied the right, to point out whether a given permit accords with the routes identified under sub-section (5), and the other details in relation thereto. Such a right is an offshoot of the statutory right, conferred under sub-section (5) of Section 88. Therefore, whatever be the restrictions placed on the rights of the holders of permit, granted under Section 174, of the Act, in the matter of objecting to grant permits, the operators on inter-state routes do have a right to put forward their grievance about non-compliance with the procedure prescribed under Section 88.

Coming to the merits of the matter, the petitioner had urged that five permits granted to the 2nd respondent were not covered by any inter-state agreement. While the 2nd respondent places reliance upon a supplementary agreement, published in the gazette, dated 27-01-1992, and certain other documents, the petitioner alleges that they do not cover the permits issued to the 2nd respondent. This Court would have felt the necessity to examine the same in detail, but for the fact that out of the five permits, granted to the 2nd respondent, and countersigned by the

1st respondent, vehicles are said to have been put on only two permits, and even they expired by 30-06-2007. The petitioner can submit its representation, either well in advance, or whenever the 2nd respondent seeks countersignature of the 1st respondent. In such an event, the 1st

respondent shall take the objections raised by the petitioner into account, and take necessary steps.

The application made by the petitioner to the 1st respondent for issuing certified copy of the proceedings, in which the counter-signature in favour of the 2nd respondent was made was not considered on the ground that no record was maintained for the same. Before this Court also it is pointed out on behalf of the 1st respondent that no record is maintained for countersignature, and that the permits granted by the S.T.A., Karnataka, were just countersigned and returned to the 2nd respondent. Such a course cannot be treated as legally valid. The countersignature provided for under Section 88 of the Act cannot be made automatic, nor it is an empty formality. In fact, the section itself makes it clear that the countersigning authority must proceed as though he is granting permit for the first time, by himself, and that it can also impose such conditions as are felt necessary. This kind of exercise must be evident from the record, and the file is required to be maintained. The 1st respondent shall observe this in the future.

For the foregoing reasons, the writ petition is disposed of, directing that, it shall be open to the petitioner to raise objections as and when the 2nd respondent seeks countersignature of the 1st respondent, and the same shall be taken into account by the 1st respondent.

There shall be no order as to costs.

**L. NARASIMHA REDDY, J.**

**Dt.27-06-2007.**

***Note**: L. R. copy to be marked.*

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[1] AIR 1991 A.P. 11 (FB)